

Part 9

Group

Exhibit C

Depositions of Mike Aprile, Charles August, Steven Cisco, Ryan Drew, Joe Farrell, Joseph Ward, James Miller, Stan Simrayh, James Schweihs, and Mr. Quigley.

1 IN THE DISTRICT COURT OF THE UNITED STATES
2 FOR THE NORTHERN DISTRICT OF ILLINOIS
3 WESTERN DIVISION

4 TAMMY BARKER, et al.,)
5)
6 Plaintiffs,)
7)
8 -vs-) No. 08 C 50015
9)
10 LOCAL 150, INTERNATIONAL UNION)
11 OF OPERATING ENGINEERS,)
12 AFL-CIO,)
13 Defendant.)
14

15 Deposition of JAMES F. SCHWEIHS, taken before
16 DONNA L. POLICICCHIO, C.S.R., and Notary Public, pursuant
17 to the Federal Rules of Civil Procedure for the United
18 States District Courts pertaining to the taking of
19 depositions, at Suite 3400, Three First National Plaza,
20 70 West Madison Street, Chicago, Illinois, commencing at
21 1:03 p.m., on the 30th day of March, 2010.

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23
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There were present at the taking of this deposition
the following counsel:

MR. ROBERT HANLON
14212 Washington Street
Woodstock, Illinois 60098
(815) 206-2200

on behalf of the Plaintiffs;

INTERNATIONAL UNION OF OPERATING

ENGINEERS, LOCAL 150 by

MR. BRYAN P. DIEMER

6140 Joliet Road

Countryside, Ill

(708) 579-6663

on behalf

on behalf of the Defendant;

THE MORAN LAW GROUP by

MR. JOHN THOMAS MORAN, JR.

309 WEST

Suite 900

CHICAGO, ILLINOIS

(312) 333-3233

on behalf of the Deponent.

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1 DEPOSITION OF
2 JAMES F. SCHWEIHS

2 March 30, 2010

3 EXAMINATION BY: PAGE

4 Mr. Hanlon 4

5 * * * * *

6 EXHIBITS

7 (No exhibits marked.)

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1 JAMES F. SCHWEIHS,
2 called as a witness herein, having been first duly sworn,
3 was examined upon oral interrogatories and testified as
4 follows:

5 EXAMINATION

6 BY MR. HANLON:

7 Q Would you please state your name for the
8 record?

9 A James F. Schweihs.

10 Q Mr. Schweihs, where do you reside?

11 A Pardon?

12 Q Where do you reside?

13 A After consulting with my attorney, I am
14 exercising my privilege against self-incrimination
15 and respectfully refuse to answer the question.

16 MR. HANLON: Counsel, if it's okay with you and
17 if it's okay with Mr. Diemer, I would like to define
18 what he just said simply with the words "take five,"
19 if he wishes to exercise that same privilege for the
20 rest of this deposition, as opposed to repeating that
21 whole long thing. If he wants to use the words "take
22 five," I will accept that to mean exactly what he
23 just said. Is that fair?

24 MR. MORAN: That's fine with me.

1 MR. DIEMER: Fine with me.

2 MR. HANLON: It will make it go a lot quicker.

3 BY MR. HANLON:

4 Q On January 14, 2005, you followed Mrs. Tammy
5 Barker, is that correct?

6 A Take five.

7 Q On January 14, 2005, you followed Tammy
8 Barker to a St. Charles waste treatment facility, is
9 that correct?

10 A Take five.

11 Q On January 14, 2005, you asked Mrs. Barker to
12 get into your vehicle, is that correct?

13 A Take five.

14 Q You were driving a vehicle on January 14,
15 2005, owned by Local 150, International Union of
16 Operating Engineers, is that correct?

17 A Take five.

18 Q On January 14, 2005, you told Mrs. Barker,
19 Mrs. Tammy Barker, that you would stop following her
20 if she would talk with you, is that correct?

21 A Take five.

22 Q At one point in time your telephone number or
23 a phone that you used had the telephone number
24 (708) 927-6060, is that correct?

1 A Take five.

2 Q On January 18, 2006, you followed Tammy
3 Barker from Elgin, Illinois, to Crest Hill, Illinois,
4 is that correct?

5 A Take five.

6 Q On January 18, 2006, you traveled on U.S.
7 Highway 20 heading towards Route 59, is that correct?

8 A Take five.

9 Q On January 18, 2006, in order to maintain a
10 chase with Mrs. Tammy Barker, you drove erratically
11 with a willful disregard to the citizens on the
12 roadway, is that correct?

13 A Take five.

14 Q While you were following Tammy Barker, you
15 would speed up and cut off cars in front of Tammy
16 Barker, is that correct?

17 A Take five.

18 Q You followed Tammy Barker on at least 25
19 occasions, is that correct?

20 A Take five.

21 Q On January 18, 2006, you maneuvered your
22 vehicle in front of Mrs. Barker's vehicle, is that
23 correct?

24 A Take five.

1 Q And when your vehicle was in front of
2 Mrs. Barker's vehicle, you slammed on the brakes, is
3 that correct?

4 A Take five.

5 Q On January 18, 2006, you performed a U-turn
6 on the exit ramp from Interstate -- I'm sorry -- from
7 U.S. Highway 20 at Route 59, is that correct?

8 A Take five.

9 Q How would you characterize your driving in
10 relationship to Mrs. Tammy Barker?

11 A Take five.

12 Q On January 18, 2006, Mrs. Tammy Barker was
13 headed south on Route 59, correct?

14 A Take five.

15 Q While Mrs. Tammy Barker was headed south on
16 Route 59, you attempted to pass a truck using an
17 opposing lane of traffic, is that correct?

18 A Take five.

19 Q Route 59 is a four-lane road running north
20 and south, is that correct?

21 A Take five.

22 Q Have you had an opportunity to review the
23 complaint in this case?

24 A Take five.

1 Q On January 18, 2005, after passing a truck in
2 the oncoming lane of traffic, you accelerated to both
3 pass the truck and Mrs. Barker's car and then slammed
4 on your brakes directly in front of Mrs. Barker, is
5 that correct?

6 A Take five.

7 Q Mrs. Barker obtained a police escort to a job
8 site, is that correct, on January 18, 2005?

9 A Take five.

10 Q And then you followed that police escort, is
11 that correct?

12 A Take five.

13 Q Mrs. Barker told you to stop following her on
14 January 18, 2005, is that correct?

15 A Take five.

16 Q Isn't it correct that Tammy Barker told you
17 that she believed someone would get hurt if you
18 continued to follow her?

19 A Take five.

20 Q On January 18, after Mrs. Barker returned to
21 her car, you again followed her to Elgin where she
22 drove to the Elgin Police Station, is that correct?

23 A Take five.

24 Q Have you ever seen Mrs. Barker upset as a

1 result of your conduct?

2 A Take five.

3 Q Did Mrs. Barker ever complain to you that she
4 was experiencing any kind of chest pains?

5 A Take five.

6 Q Did you ever take videotapes of Mrs. Barker?

7 A Take five.

8 Q On Friday, May 13, 2005, or thereabouts, you
9 were driving a vehicle with license plate ML 9119, is
10 that correct?

11 A Take five.

12 Q And on Friday, May 13, 2005, you followed
13 Mrs. Barker from the PSI office in Elgin to the
14 Fulton Street parking garage between the hours of
15 6:30 a.m. and 8:00 a.m. or thereabouts, is that
16 correct?

17 A Take five.

18 Q On Tuesday, May 17, 2005, you followed
19 Mrs. Barker commencing at 6:40 a.m. or thereabouts
20 and followed her to PSI's offices home to the Fulton
21 Street parking garage located in Elgin, is that
22 correct?

23 A Take five.

24 Q On May 17, 2005, you drove recklessly and at

1 times tailgated Mrs. Barker's car, correct?

2 A Take five.

3 Q Had you been given instructions by anyone at
4 Local 150 to conduct yourself -- I'm sorry. Strike
5 that.

6 Were you given any instructions by anyone at
7 Local 150 to drive recklessly around Tammy Barker?

8 A Take five.

9 Q Have you ever run Tammy Barker's license
10 plate?

11 A Take five.

12 Q Isn't it true that you contacted Linda Soria
13 and requested Tammy Barker's -- I'm sorry -- asked
14 Linda Soria to run Tammy Barker's license plate?

15 A Take five.

16 Q Have you ever seen Tammy Barker with
17 shortness of breath?

18 A Take five.

19 Q Have you ever attended a meeting with
20 Local 150 business agents wherein motor vehicle
21 records were discussed?

22 A Take five.

23 Q Are you employed by Local 150?
24 A Take five.

1 Q So it's true that you were previously
2 employed by Local 150, is that correct?

3 A Take five.

4 Q You were employed by Local 150 in 2005 and
5 2006, correct?

6 A Take five.

7 Q Can you tell me where you're currently
8 employed?

9 A Take five.

10 Q Did you ever park outside of Tammy Barker's
11 home?

12 A Take five.

13 Q Tammy Barker never provided you any consent
14 for Local 150 to obtain any information about her
15 from the Illinois Secretary of State or from any
16 motor vehicle records, is that correct?

17 A Take five.

18 Q To your knowledge did Local 150 obtain or use
19 Tammy Barker's personal information?

20 A Take five.

21 Q When you were employed by Local 150, were you
22 issued an automobile to drive?

23 A Take five.

24 Q Local 150 maintains automobiles for use by

1 its officers, employees, and agents, is that correct?

2 A Take five.

3 Q Local 150 maintains automobiles with video
4 cameras mounted in the dashboard, is that correct?

5 A Take five.

6 Q The vehicle that you were issued by Local 150
7 had an Opticom system in it, is that correct?

8 A Take five.

9 Q Can you tell me how old you are?

10 A Take five.

11 Q Did you ever receive any instructions from
12 anyone at Local 150 to use motor vehicle records?

13 A Take five.

14 MR. HANLON: Mr. Diemer won't find this
15 surprising, but I'm nearly done. I'd just like to
16 take a short break, and I'll be right back.

17 MR. MORAN: Sure.

18 (Recess was taken.)

19 BY MR. HANLON:

20 Q Back on the record.

21 Mr. Schweihis, do you have any reason to
22 believe that you're under investigation by any law
23 enforcement agency?

24 A Take five.

Q Do you have any reason to believe that you're under investigation by any police agency?

A Take five.

Q Do you have any reason to believe that you're under investigation by any governmental authority?

A Take five.

MR. HANLON: Mr. Diemer?

MR. DIEMER: Are you done?

MR. HANLON: Yeah, I am.

MR. DIEMER: I have no questions.

MR. MORAN: I certainly don't.

(Whereupon the deposition concluded

at 1:21 p.m. on the 30th day of

March, A.D. 2010.)

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1 STATE OF ILLINOIS)
2) ss:
3 COUNTY OF C O O K)

4 The within and foregoing deposition of the
5 aforementioned witness was taken before DONNA L.
6 POLICICCHIO, C.S.R., and Notary Public, at the place,
7 date, and time aforementioned.

8 There were present during the taking of the
9 deposition the previously named counsel.

10 The said witness was first duly sworn and was then
11 examined upon oral interrogatories; the questions and
12 answers were taken down in shorthand by the undersigned,
13 acting as stenographer and Notary Public; and the within
14 and foregoing is a true, accurate, and complete record of
15 all of the questions asked of and answers made by the
16 aforementioned witness, at the time and place hereinabove
17 referred to.

18 The signature of the witness was not waived, and
19 the deposition was submitted, pursuant to
20 Rules 30(e) and 32(d) of the Rules of Civil Procedure for
21 the United States District Court, to the deponent per
22 copy of the attached letter.

23 The undersigned is not interested in the within
24 case, nor of kin or counsel to any of the parties.

1 Witness my official signature and seal as Notary
2 Public in and for Cook County, Illinois, on this
3 _____ day of _____, A.D. _____.
4
5
6
7
8

DONNA L. POLICICCHIO, C.S.R.

9 License No. 084-003740

Notary Public

10 311 South Wacker Drive

 Suite 300

11 Chicago, Illinois 60606

Phone: (312) 386-2000

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IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

TAMMY BARKER, et al.,)
)
Plaintiffs,)
)
-vs-) No. 08 C 50015
)
LOCAL 150, INTERNATIONAL UNION)
OF OPERATING ENGINEERS,)
AFL-CIO,)
)
Defendant.)

I, JAMES F. SCHWEIHS, being first duly sworn, on oath say that I am the deponent in the aforesaid deposition taken on March 30, 2010; that I have read the foregoing transcript of my deposition, consisting of Pages 1 through 16, inclusive, and affix my signature to same.

JAMES F. SCHWEIHS

Subscribed and sworn to
before me this _____ day
of _____, _____.

Notary Public

MERRILL CORPORATION
Certified Shorthand Reporters
311 South Wacker Drive - Suite 300
Chicago, Illinois 60606
(800) 868-0061 - (312) 386-2000

April 9, 2010

Mr. James F. Schwehs
c/o Mr. John Thomas Moran, Jr.
The Moran Law Group
309 West Washington Street
Suite 900
Chicago, Illinois 60606

Re: Barker v. Local 150
Dep of: James F. Schweihns
Taken: March 30, 2010

Taken: March 30, 2010

Dear Mr. Schweih's:

The above referenced deposition has been transcribed, and is ready for review, pursuant to the Rules of Court.

Please contact our office at your earliest convenience for an appointment to review the deposition transcript, or you may contact counsel for a copy of the transcript for your review.

Upon failure to comply within 30 days, we shall forward an appropriate affidavit of noncompliance to counsel without further notice.

Very truly yours,

Merrill Corporation

cc: Mr. Robert Hanlon
Mr. Bryan P. Diemer

dp1401-177677

MERRILL CORPORATION

(800) 868-0061

(312) 386-2000

1 CASE: Barker v. Local 150 DATE TAKEN: 3/30/10

2 DEPONENT: James F. Schweihs

3 PAGE LINE ERRATA SHEET

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23 SIGNED _____ DATE _____

24 Reporter: Donna L. Policicchio

25

26 MERRILL CORPORATION

(800) 868-0061

27 (312) 386-2000